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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/805,091

03/19/2004

William Finlay McWalter

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7696

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7590

12/26/2007

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EXAMINER

BRIER, JEFFERY A

ART UNIT

PAPER NUMBER

2628

MAIL DATE

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12/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/805,091	Applicant(s) MCWALTER ET AL.	
	Examiner Jeffery A. Brier	Art Unit 2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/25/2007 has been entered.

### ***Response to Amendment***

2. The amendment filed on 10/25/2007 has been entered. The amendments to the claims overcomes the 35 USC 112 second paragraph rejection of claims 11 and 12 set forth in the action mailed on 8/6/2007 but does not correct the 35 USC 112 second paragraph issues present in claim 19 set forth in the action mailed on 8/6/2007 and overcomes the 35 USC 112 first paragraph rejection set forth in the action mailed on 8/6/2007, however, another written description issue is now present after the amendment to claim 1. The 10/25/2007 amendment to the specification at paragraph [0036] does not overcome the new matter objection for the reasons given below. The amendments to the specification at paragraphs [0024], [0026], [0045], and [0047] overcomes the objections to the specification set forth in the action mailed on 8/6/2007.

3. The amendment filed 06/11/2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no

amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

the changing of % to millisecond in paragraph [0047] is not supported by the specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

4. The amendment filed 10/25/2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the change from JTS to JPS and now to "applications to be processed by the telematics control unit (TCU)" is not supported by the specification because paragraphs [0037] and [0038] do not describe carlets as communicating with the applications via the API.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Response to Arguments***

5. Applicant's arguments filed 10/25/2007 have been fully considered but they are not persuasive.

### **Specification**

The 10/25/2007 amendment to paragraph [0036] is considered to be new matter because paragraphs [0037] and [0038] do not describe carlets as communicating with the applications via the API.

The 06/11/2007 amendment to paragraph is considered to be new matter because paragraph [0047] does not convey milliseconds since the flicker rate of the human eye only require updates at about 60 times per second. Thus updating the entire display every 5 milliseconds and an application performing an update every 1 millisecond is not conveyed by paragraph [0047].

Claim Rejections - 35 USC 112 1<sup>st</sup> paragraph

As discussed above another written description issue is now present after the amendment to claim 1. At lines 3-7 of claim 1 "an application executing in a telematics server" is claimed, however, the specification, noting page 11 lines 11-12 and paragraphs [0037] and [0040]-[0041] and figures 6 and 7, does not convey "the user interface is associated with an application executing in a telematics server" and at lines 12-14 "an application buffer, located at the telematics client, in communication with the draw manager, the application buffer configured to receive the image data from an application" because the specification describes the user interface is associated with an application (504a-504n) executing in a telematics client 500.

Claim Rejections - 35 USC 112 2nd paragraph

The amendments to the claims overcomes the 35 USC 112 second paragraph rejection of claims 11 and 12 but does not correct the 35 USC 112 second paragraph issues present in claim 19. At lines 1 and 2 of claim 19 "wherein method operation of writing the data from the application buffer to the draw manager includes" is claimed but

"method operation" does not clearly refer to anything in claim 14 and "the data" does not clearly refer to either "the first image data" or the "second image data" of claim 14.

Claim Rejections – 35 USC 103

The arguments have been fully considered, however, in view of the following 35 USC 112 first paragraph rejection an art rejection is held in abeyance until the 112 issue is resolved. In re Steele, 305 F.2d 859, 134 USPQ 292 (CCPA 1962) (it is improper to rely on speculative assumptions regarding the meaning of a claim and then base a rejection under 35 U.S.C. 103 on these assumptions).

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-12 and 14-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The 6/11/2007 amendment added a claimed limitation at lines 3-7 of claim 1 which was not conveyed by applicants specification. Lines 3-7 claim "an application executing in a telematics server", however, the specification, noting page 11 lines 11-12 and paragraphs [0037] and

[0040]-[0041] and figures 6 and 7, does not convey claim 1 at lines 3-4 "the user interface is associated with an application executing in a telematics server" and at lines 12-14 "an application buffer, located at the telematics client, in communication with the draw manager, the application buffer configured to receive the image data from an application" because the specification describes the user interface is associated with an application (504a-504n) executing in a telematics client 500. Claim 1 was explicitly amended to claim this claim limitation at lines 3-7 and 9-14, claim 9 was implicitly amended to include this limitation at lines 13-15, and claim 14 was implicitly amended to include this limitation at lines 5-7. Additionally claims 9 and 14 were argued to contain this limitation at page 17 last three lines and page 18 lines 6-9 in the 10/25/2007 response and also argued to contain this limitation at page 19 lines 6-9 and 15-18 in the 6/11/2007 response. At page 17 last five lines of the 6/11/2007 response and the sentences spanning pages 15 and 16 of the 10/25/2007 response applicant argued in both responses "HIROSAWA also does not disclose, teach, or suggest that the display is in communication with applications that are running on the telematics server and transmitting image data to the display through a wireless network.". At page 16 lines 18-20 of the 6/11/2007 response and at page 14 lines 6-8 of the 10/25/2007 response applicant argued in both responses "ANDERSON also does not disclose, teach, or suggest that the display is in communication with applications that are running on the telematics server and transmitting image data to the through a wireless network. ". Therefore, all the claims claim "an application executing in a telematics server".

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-12 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1:

At lines 4 and 13 "an application" is claimed, thus, the "an application" at line 13 does not clearly refer back to the previous "an application". Dependent claims 2-12 do not correct this issue.

Claim 19:

At lines 1 and 2 "wherein method operation of writing the data from the application buffer to the draw manager includes" is claimed but "method operation" does not clearly refer to anything in claim 14 and "the data" does not clearly refer to either "the first image data" or the "second image data" of parent claim 14. The whole claim limitation needs rewording.

**Conclusion**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A Brier whose telephone number is (571) 272-7656. The examiner can normally be reached on M-F from 7:30 to 4:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael



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Razavi, can be reached at (571) 272-7664. The fax phone Number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jeffery A. Brier/  
Primary Examiner, Division 2628